

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA :
:
v. : 1:16CR113-1
:
JOSE GUTIERREZ-YANEZ, :
also known as Daniel :
Saucedo-Gutierrez, Jose :
Gutierrez-Saucedo, and :
Daniel Gutierrez-Saucedo :
:

FACTUAL BASIS

NOW COMES the United States of America, by and through Ripley Rand, United States Attorney for the Middle District of North Carolina, and as a factual basis under Rule 11, Federal Rules of Criminal Procedure, states the following:

On October 24, 2015, at around 9:19 a.m., Reidsville Police responded to a call at 15 Circle Drive regarding drug activity where children were present. The responding officer observed an Hispanic male, later determined to be JOSE GUTIERREZ-YANEZ, a.k.a. Daniel Saucedo-Gutierrez, Jose Gutierrez, Jose Gutierrez-Saucedo, and Daniel Gutierrez-Saucedo, coming from the residence who appeared to be trying to conceal a bulk item in his flannel shirt and heading toward a GMC truck. When GUTIERREZ-YANEZ spotted the officer, he hurried to the truck and placed the item in the driver's seat and shut the door. The officer asked him if he lived at the house, which he responded that he did. The officer then inquired about the item

GUTIERREZ-YANEZ had placed in the truck. At this, GUTIERREZ-YANEZ mumbled something about taking it to a friend, looked down, kept sighing and taking deep breaths, and generally acted suspicious. When the officer told GUTIERREZ-YANEZ that she knew the item to be drugs, GUTIERREZ-YANEZ asked who had called.

After another officer arrived on the scene, they performed a pat down search of GUTIERREZ-YANEZ during which they found a bag of crystal methamphetamine in his left shirt pocket. GUTIERREZ-YANEZ then gave consent to a search of his vehicle which revealed two Tupperware bowls containing a total of 2,035 grams of crystal methamphetamine, plastic baggies containing 25.5 grams of cocaine, digital scales and plastic bags used for packaging narcotics. Also recovered was \$1,590.73 in United States currency. Reidsville Police Department secured a search warrant for the residence. The search did not reveal additional drugs or a methamphetamine lab, but did result in seizure of four drug saint statues. Due to the squalid conditions of the home, the Department of Social Services was contacted to do a welfare check on the children.

JOSE GUTIERREZ-YANEZ waived his Miranda rights and agreed to speak with officers. He said that he had recently met a man by the same last name as him while he was in New Mexico renewing his driver's license. He said the man's name was "Chuy" Saucedo and that he offered GUTIERREZ-YANEZ a way to make some money. He said that he

met "Chuy" at a rest stop somewhere between Lexington and Greensboro where he picked up the drugs from "Chuy." GUTIERREZ-YANEZ indicated that he could probable call up "Chuy" and order more drugs if officers would let him go and guarantee that he would not be deported because he did not want to go back to Mexico. Officers said they could not make that promise.

GUTIERREZ-YANEZ is a Mexican citizen by birth who was initially granted Legal Permanent Residence status in Miami, Florida, on December 1, 1990. On September 23, 1997, he was arrested by the DEA for conspiracy to distribute and possess with intent to distribute 100 grams or more of methamphetamine; two counts of distributing methamphetamine; and use of a communication facility to facilitate a felony of distribution of methamphetamine and conspiracy to distribute and to possess with intent to distribute, under the name Jose Gutierrez. He was convicted on May 1, 1998, of conspiracy to distribute and to possess with intent to distribute 100 grams or more of methamphetamine and was sentenced to forty-six (46) months' imprisonment and three (3) years of supervised release. Then, on April 3, 2002, he was ordered removed from the United States to Mexico. Though he filed an appeal with the Board of Immigration Appeals (BIA), the BIA affirmed the Judge's order of removal on September 3, 2002. GUTIERREZ-YANEZ was removed from the United States to Mexico on September 17, 2002.

This the 2nd day of June, 2016.

Respectfully submitted,

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UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2016, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Helen L. Parsonage, Esquire.

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